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## PROVENÇAL AND CATALONIAN RESPONSA.

IN September, 1898, I acquired some MSS. from a little *Yeshiba* at Bounar Bashi, near Smyrna. One of these, which I will call MS. Smyrna, was a neatly written 4to MS. containing a collection of Responsa of the twelfth, thirteenth, and fourteenth centuries. The book was evidently at one time considerably larger, but in the seventeenth or eighteenth century it was already a fragment and had lost no less than 269 responsa, for, in a comparatively modern hand, a preface and index are added and the ש' renumbered, so that No. 1 is what used to be 271 and so on.

The following is a copy of the collector's preface:—

ויאת ליאודה ויאמר אברך את ה' אלדי אדרוני אברהם אשר הנחני בדרך  
אמת כי הקהה לפני נחת שלוחני | דשן אף ארצנו רעננה על מי השלה  
הוא עדינו העצמי | מעין המתגבר במצוות ודעתי ישב בשבת תחכמוני |  
להшиб שלחו דבר ב策ת אמרי פיו בחנני | הרואה חצי המנוחות בשנבי  
ומגנני | ונקרא שמו ואביו על בני הרב ר' משה בר בורמקוני | נפשו  
צירורה לפני קוני | ביהוא אדרוני | הן אמרתי זה משה האיש שמו שמענו  
אותו לא ראיינו כתוב בספר הפוסקים ז'ל ראשונים ונם אחרונים אבל  
מתוך דבריו מוכיה שהיה אחר מות שני בני היזהה' הרשב'א והרא'ש  
נפש צירוה בצורך חיים דשנים ורעננים ולב מנמנם אם הוא הרוב ר'  
משה חלואה זלה'ה אשר נודע בשערים שמו שלוח מים חיים בזמן  
הרבעים המאוורות הנדולים רב' פרץ והרב רבינו נסים ז'ל כאשר כתוב  
בסי' קלג לתוכמי פריש מצרפת היושבת בנינים ובזמן הרב בן ששת ז'ל  
היה בן שמונים שנה בכחו או כחו עתה יוצאה ובא למלחתה של תורה  
כאשר היה מלפניהם האמן י"ט תשובות מצאתי מהרב הנ"ז כי שמו בכרבו  
בסוף התשובה לחכימא ברמיאו ولو שם בנכונים גם מצאתי י"ט תשובות  
מהרי"טבא ז'ל וקצת תשובות להריב"ש ורבנים אחרים מלאים מצוות  
כרכונים מפארות אחת הנה ואחת הנה ואספותם אל תוך ביתי וצווית  
להעתיקם באשר מצאחים מלאים שמות וצינים ואלדי מעווים אשימים דברתי  
יעיר לי חכמה ודעתו לשם בלמודים וاعבור עליהם לצרוף בכור וללבן

<sup>1</sup> ועוזין חט' הרגינש שסט ושבצ'

לבנים ובחסדר עלין ר' יהורה היה נותן בהם סימנים למען יוזם הקורא בו לא יעוף ולא יגע לקרב דין ודברים ממעינים שונים ואל יאשם יהורה במצבו אזו תשובה נרשמת פעמים כי לא דבר רק הוא והמשכילים יהרו כזוהר הרקיע לפני ארון האדונים מאמר מרדכי הלו ס"ט נין מוחה"ז' בבל ח"ז סי' נ' שהזכיר להרב המוחבר מהר"ם מקאנגי הנקרה חוליואה והרביב"ש ס' שכ"ז מוכירו.

Pages 1 to 11 are occupied by Preface and Index.

Pages 13 to 94 contain 124 Responsa by a disciple of the רשב"א, R. Solomon ben Aderet (died before 1320). The author constantly quotes him as his master and final authority. Some of these Responsa are quite interesting. There is one on the efficacy of prayers for the dead. Another as to a poor Jew who was imprisoned for debt בבית הנובך in custody of the tax collector on a Sabbath, although the community had a charter under the king's sign manual that no Jew should be detained on Sabbaths and festivals for a money claim, but the charter was mislaid on the Friday and did not turn up till Sabbath. Another as to יין נסך (Gentile wine).

Pages 95 to 129 contain "nineteen" (really eighteen) Responsa, stated in a gloss to be by R. Moses, חליגיה, who was a contemporary of the רב בר ששת והר"ץ, i.e. R. Isaac ben Shesheth, of Valencia and Algiers, who died about 1395, and R. Nissim Gerondi<sup>1</sup>, of Barcelona, who died about 1374. This Rabbi is evidently the same man as the Moses דורי ודורשו של תוליאו of Tortosa, referred to by Weiss in his collection (v. 166 and 186). He does not seem to be the author of the 124 legal decisions with which the collection commences.

Rabbi Israel Lévi, of Paris, has drawn my attention to the fact that in 1873 a work of this Rabbi Moses Chaliva was published at Jerusalem, entitled : חידישי מהרמ הלאוה על פסחים. This contains an approbation by R. Abraham Ashkenazi, the then Haham Bashi of Jerusalem. He gives a reference by that number to 133 of my collection, from which it would seem that at that date this very MS. or a copy from it was in his hands ("ת"). How it afterwards found its way back to a little Yeshiba in a village near Smyrna is a mystery. Mr. Lunz has been good enough to send me the book from Jerusalem. The title-page adds another spelling to the orthographical puzzle of the author's name, but the edition tells us something new about him. The Haham Bashi in his הסכימה quotes a eulogistic reference to R. Moses as the equal of the RIBASH in the שוו"ח of the מהRib"ל,

<sup>1</sup> Vide Schechter, *Studies in Judaism*, p. 162, as to R. Nissim's opposition to the mysticism and cabballistic tendencies of Nachmanides.

i.e. R. Joseph ibn Leb ben David, who died at Salonica or Constantinople in 1579<sup>1</sup>. He also refers to the נ"ז (Azulai) as knowing the ש"ה of R. Moses. Azulai seems to be the only person who mentions a MS. of the works entitled: חוה התנופה ס' הוקות הריניים אבן הרואה, as well as other Responsa, all of which occur in my MS., so that it seems justifiable to assume that Azulai also had my MS. in his hands, and that perhaps it belonged to him.

Weiss has pointed out how Graetz<sup>2</sup> and Steinschneider<sup>3</sup> confound R. Moses with the RIBASH. His family name is probably ריבאש as given in the preface to MS. Smyrna. "Chaliva" is a name still extant among the Portuguese Jews. In fact, one of the Dayanim of the Portuguese Synagogue in London who died about a dozen years ago was named Chaliva. M. Lévi suggested that the Leyden MS. might contain some of the Responses in MS. Smyrna. As usual, his expectations were more than verified.

I had an opportunity of consulting the Leyden MS. this summer, and following is a synopsis of the נ"ו in the Leyden and Smyrna codices. The names are those of the towns where the Responses were written. The numbers marked with an asterisk are those expressly ascribed in the MS. to be by R. Moses; S = Smyrna, L = Leyden.

S 125=L 20 Monzon.

S 126=L 21.

S 127=L 22\*.

S 128=L 23 (Trina).

S 129=L 10 and L 27 Alcanis.

S 130=L 24 Majorca.

עוד כתוב החכם נ"ר = כתבת עוז=L 25, beginning

S 132=L 26\*.

S 133=L 11\* Paris.

S 134=L 1\* Calatayub in Arragon (vide Steinschneider, *J. Q. R.*, XI, 605).

S 135=L 2.

S 136=L 3 Barcelona.

S 137=L 4\* Cervera, between Barcelona and Lerida. Cap Cerbère is the last French station on the railway to Gerona and Barcelona. It gave his name to the famous Spanish Admiral of 1898.

S 138=L 5\* Fraga. With greeting to חברנו "our colleague" R. Shealtiel.

S 139=L 6\*.

S 140=L 7 Saragossa.

S 141.

<sup>1</sup> Vide Steinschneider, 5948.

<sup>3</sup> *Leyden Catalogue*, Warner, 50, p. 223.

<sup>2</sup> VIII, 33.

S 142=L 8\*.  
 S 143=L 12\* Gerona.  
 S 144=L 13.  
     L 14.  
 S 145=L 15.  
 S 146. קָמְרָשָׁה.  
 S 147.  
 S 148=L 17\* שׁוֹלְשׁוֹנָה = Solsona.  
 S 149.  
 S 150=L 19\*.

Thus in the Leyden MS. 17 of the eighteen (not nineteen) Responses appear, and eight of these are there ascribed to R. Moses Chaliva. S 141 answers a question as to the Levirate asked by R. Abraham אלפּוּאַן. L 23 adds another Catalonian town, Trina, to the Smyrna list of names. Five of the eight remaining Responses by contemporary Rabbis, including the RIBASH, are represented in the Leyden MS., where three of them are ascribed obviously in error to R. Moses. The Leyden MS. adds on pages 33 to 59 Responses by other French Rabbis, including the Paris Chief Rabbi R. Jochanan b. R. Mattathias and his brother R. Joseph. This last has the honour of a full page in Neubauer's *Ecrivains Juifs Français* (p. 411). He was at one time the owner of the famous Talmud Codex, now at Munich, but probably written at Paris.

These Responsa are interesting both in matter and in form. In matter because they deal with communal and personal affairs in France and Spain about the time of the expulsion of the Jews from England. And in form because they are modelled upon those of the ר'שֶׁבָּא. Nearly every letter is addressed from a different place, and the author, being very peripatetic, supplies us with quite an itinerary. The first is headed מונסן, probably not from Venaissin, but Monçon or Monzon in Catalonia.

Of them all, that written in Paris about its Chief Rabbi R. Jochanan ben R. Mattathias ("John Matthews," p. 110), has been already referred to. The incident of the attack on his Rabbinate made by an ordained usurper from Vienna is well known to history, and the ר'שֶׁבָּא's responsum on the subject has been published. That of R. Moses is being edited in the *Revue des Études Juives*. The Rabbi says that he is eighty years old, that in his youth he was trained at Barcelona in the College of the ר'שֶׁבָּא, the author of the תורת הבית. That he knew the Rabbi's son and Rabbenu Peretz and Rabbenu Nissim, the latter two of whom yielded to his opinion when they were in difference. That he had lived at Tortosa in penury for thirty-five years without aspiring to a Rabbinate.

Another responsum casts a lurid light on the troubles of the times. Reuben borrowed a book from Simeon, but when asked to return it pleaded that it had been burnt when the Gentiles raided the Jewish quarter and despoiled it. This accounts for the comparatively small number of Hebrew MSS. of the thirteenth and fourteenth centuries still extant. It was the epoch of the Guerre des Pastoureaux, when France was nearly as anti-Semitic as in 1899.

The responsum numbered 139, corresponds with no. 176 of the *שׁוֹתָה הריב"שׁ*. It mentions *Enchisai Crescas*, R. Chisdai Chaninai, R. Shealtiel Gracian, and R. David Shoeib of Ragusa.

The nineteen end with the following note:—

*ע"ב הי"ט תשובה יניע יראה לפני כל יודעי דת ודין שלמהון ישנא.*

Then follow interesting Rabbinic decisions about a Jewish heiress of Gerona, to which an English *cause célèbre* of the last century, the case of Goldsmid v. Bromer<sup>1</sup> in 1798, might well be compared. The young Girondist after becoming engaged to a young man, lost her parents and brothers and sisters and succeeded to an immense sum of money. Her *שליש*, a third party or sort of trustee on her behalf to see that the betrothal was duly consummated by marriage, thought her too good a match for her *fiancé*, and got his own son to marry her clandestinely. Whence trouble and much contention and strife, and the calling into counsel of all the leading Rabbis of the day. Among the authorities consulted were R. Samuel ben Solomon Schalom (Sir Morel of London?), Don Astruc Crescas<sup>2</sup>, R. Meir ben Levi Abulafia, and R. Isaac Bonafoux, the son-in-law of the *ריב"ש* who signs himself *איצק בונפוש בן שאלה ניאול*.

On page 147 there is a letter addressed to the *קהל קמרשה* about the "Chalitza" of the wives (!) of "En mose Bonastruc" by R. Chisdai Crescas<sup>3</sup>.

On the next page there is a response headed: *לוחיק שיטשונה*—*השלם דין אשתורוק קרשך נ"ר*, by R. Isaac ben Samuel ben Schealtiel.

From pages 151 to 165 we have eighteen abbreviated responsa (*בקצער*) by the *R. רימכ"א* *Jom Tob ben Abraham* of Hispala in Arragon (fol. 1342).

Next follows a correspondence between R. Solomon ben Simon ben Zemach, i. e. Solomon Duran<sup>4</sup>, and R. Nathan Nagar of Constantine.

<sup>1</sup> *i* Hagg. Cos. Rep., 324.

<sup>2</sup> Vide Steinschneider, 757, 758, and cp. Renan and Neubauer's *Ecrivains Juifs Français*, 548.

<sup>3</sup> This is probably the grandfather or great-grandfather of the Chisdai Crescas (fol. 1410), referred to by Steinschneider, 841.

<sup>4</sup> Steinschneider, 2306. Among my *Genizah* fragments I possess an original Hebrew letter addressed to his father, Simon Duran, dated 1439.

This is the **מליצה** or rhetorical epistle in Chaldaic, printed with letters of Prophiat Duran at Constantinople in 1577, and reprinted by Geiger in 1844<sup>1</sup>.

From pages 170 to 172 we have six anonymous **שׁוֹחֵן אֲשֶׁר נִזְמָנָה** from German Rabbis, including one as to a striking clock.

Five responses of R. Isaac Corcosa occupy the next two pages.

On page 175 follow some important, but brief **שׁוֹתָה**, copied or abbreviated from the **עטמור**<sup>2</sup>, a work partly printed in 1608 at Venice, compiled by R. Isaac ben Abba Mari, a Rabbi of Marseilles in the twelfth century. They consist of responses on the subject of **קנין** (possession) by Paltoi Gaon, Samuel ben Hofni, Hai Gaon, Meshullam ben Kalonymos, the **RIF**, Nissim Gaon, Joseph ibn Megas, R. Moses ben Chanoch, Saadia Gaon, and one from R. Samuel to **מאור טוכנה** **מספונט**<sup>3</sup>, i.e. of Siponto, near Naples.

The remainder of MS. Smyrna is occupied by the following works:—

A. **ס' חוקות הדיינים**<sup>4</sup>, pp. 183–274 being 236 *Dinim* on legal procedure in a Jewish Ecclesiastical Tribunal, from which courts martial at Rennes and elsewhere might with advantage take lessons on evidence. The author is the **RITBA**, i.e. R. Jom Tob ben Abraham, who lived in Ashbili in Spain in 1342. He says that the work is due to what he learnt from his master R. Solomon ben Aderet.

B. **דיני העסק** by the **RAABAD**. The author is R. Abraham ben David, junior, a Provençal Rabbi, who died in 1198<sup>5</sup>.

C. p. 279. **אבן הראשה** by the **RAABAN**, 75 *Dinim* by R. Eliezer ben Nathan of Mainz, also a worthy of the twelfth century<sup>6</sup>.

D. p. 290. Responsa of R. Meir of Rothenburg<sup>7</sup>, being 36 *Dinim*, described as follows: **דינין לקטתי מספר החשבן עם הנהגות הר"פ ז"ל ו"ל לתלמידי מאיר מראותנו ו"ל לתלמידי מאיר מהתלמוד**.

E. p. 298. The differences in *Minhag* between the Palestinian and Babylonian Jews. This has been printed.

F. pp. 301–316 is a fragment of the **חוּזה התנופה**<sup>8</sup>, an abbreviation

He is therein described as the head of the Community of Algiers (**אלג'יראי**), where he died in 1444, aged 83.

<sup>1</sup> Steinschneider, 2117.

<sup>2</sup> Steinschneider, 1066.

<sup>3</sup> This must be the Rabbi called in the **שם הגויים** R. Isaac ben Melchizedek **מצ'טינצ'**, who flourished in the middle of the twelfth century, vide Steinschneider, 1137.

<sup>4</sup> BenJacob, 199, apparently implies that this work was printed at Vienna in 1864 in a compilation called **חמשה רונטריסים**.

<sup>5</sup> Steinschneider, 676, cp. BenJacob, 109.

<sup>6</sup> BenJacob, 4.

<sup>7</sup> Vide *Jewish Chronicle*, May 5, 1899, p. 21.

<sup>8</sup> BenJacob, 199 and 188, and *Cat. Bod.*, op. 601.

of some of the Responses of the famous ר' אשעיה, R. Asher ben Jechiel, who died in 1327. This last is written in a different hand to that of the rest of MS. Smyrna, and the end is wanting. The author is R. Moses ben Moses of Brussels. From Benjacob, it would seem that Azulai published some of these in his חידושים שא"ל, at Leghorn in 1792.

The compilation is of value not only for its own sake, the authors, especially the other Rabbi Moses, being each in the Haham Bashi's hyperbolical language, a son of Anak, but because it throws a sidelight on the practical methods of the Jews of the Middle Ages. They were then, as we are still, great sticklers for authority. Case Law, as embodied in Rabbinical Responsa, was their infallible, if contradictory, guide<sup>1</sup>. The Responsa had to be abbreviated, collected, collated. Our MS. from Bounar Bashi is in many respects typical. As the Talmud was the digest of Jewish law in post biblical times, so would such compilations as this have constituted a *Corpus Juris* in the Middle Ages. But the growth and development of such a Digest was stopped by the persecutions and expulsions which, beginning in England in 1290, spread to France and Germany, and thence to Spain and Portugal in the succeeding centuries. There was neither time nor space for such bulky compilations. Fugitive Jews could not carry huge volumes with them. They preferred portable property and gold and jewels which they could easily convert into money anywhere. The Church and its censors provided fire and faggot for the odd volumes that threatened to survive. Dogmatic theology in the form of a *Tur* or a *Shulchan Aruch* had to take the place of the reasoned argument of literary Rabbis. The Code replaced the Digest. It is a survival, not necessarily of the fittest, but of the least bulky.

Happily not every Mastodon and Ichthyosaurus has perished out of Jewry. The publication of the "novels" (חידושים) of R. Moses Chaliva in 1873 is evidence to the contrary. And even R. Joseph Caro, author of the *Shulchan Aruch*, himself was not satisfied with his short compendium of the Jewish religion. His own *responsa* are neither few nor short. In the very cupboard at dusty old-world Bounar Bashi, where our MS. came to light, I found a bulky volume of Caro's אבן רוחן ש"ח. His אבן רוחן is but a specimen of these, and, if some there be who find fault with the *Shulchan Aruch*, they may expose themselves to the publication of a longer and weightier law, promulgated not only by his authority but supported by his arguments. This is the age of revivals.

E. N. ADLER.

<sup>1</sup> Abrahams, *Jewish Life in the Middle Ages*, 431.